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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Report of the Special Rapporteur on the rights of indigenous peoples, Victoria Tauli Corpuz

Summary

Indigenous women experience a broad, multifaceted and complex spectrum of mutually reinforcing human rights abuses. The present report is a study on the situation of indigenous women globally. It focuses on the common themes and patterns experienced by indigenous women across all regions.

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I. Introduction

1. The present report is submitted to the Human Rights Council by the Special Rapporteur on the rights of indigenous peoples pursuant to her mandate under Council resolutions 15/14 and 24/9. The Special Rapporteur provides a summary of her activities since her previous report to the Council (A/HRC/27/52) and undertakes a thematic analysis of violations against indigenous women and girls.

II. Activities of the Special Rapporteur

A. Participation in international conferences

2. The Special Rapporteur participated in a number of international dialogues and conferences:

(a) The Permanent Forum on Indigenous Issues and the Expert Mechanism on the Rights of Indigenous Peoples, with which she coordinated her work, including by holding parallel meetings with indigenous peoples and organizations during their regular sessions;

(b) The fourteenth session of the Permanent Forum on Indigenous Issues, held in New York in April and May 2015, during which she shared her views on indigenous peoples' right to self-determined development and economic, social and cultural rights;

(c) The international expert group meeting on an optional protocol to the United Nations Declaration on the Rights of Indigenous Peoples, in January 2015;

(d) The first session of the Open-ended intergovernmental working group in charge of elaborating a legally binding instrument on transnational corporations and other business enterprises with respect to human rights, in July 2015, at which she delivered the keynote speech.

B. Country visits

3. From 20 to 28 November 2014, the Special Rapporteur visited Paraguay. She noted that the country had ratified all the core international and regional human rights instruments, but observed a number of issues relating to the violations of the rights of indigenous peoples, with the foremost concern being the security of their rights to lands, territories and resources.

C. Report on international investment and trade regimes

4. The Special Rapport will present a thematic report on international investment and free-trade regimes and their impact on the rights of indigenous peoples to the General Assembly at its seventieth session.

III. Rights of indigenous women and girls

5. Indigenous women experience a broad, multifaceted and complex spectrum of mutually reinforcing human rights abuses. That spectrum is influenced by multiple and intersecting forms of vulnerability, including patriarchal power structures; multiple forms

of discrimination and marginalization, based on gender, class, ethnic origin and socioeconomic circumstances; and historical and current violations of the right to self-determination and control of resources.

6. Despite many barriers to inclusion, indigenous leaders and advocates have made significant strides in achieving recognition of indigenous peoples' rights and perspectives, including the adoption of the United Nations Declaration on the Rights of Indigenous Peoples, the establishment of the Permanent Forum on Indigenous Issues, the mandate of the Special Rapporteur on the rights of indigenous peoples and the Expert Mechanism on the Rights of Indigenous Peoples. Indigenous women actively participated in the processes that gave birth to all those mechanisms and thus feel some ownership over the Declaration and the mechanisms.

7. All the provisions of the Declaration apply equally to indigenous women and indigenous men. Article 22 (2) specifically provides that States shall take measures, in conjunction with indigenous peoples, to ensure that indigenous women and children enjoy the full protection and guarantees against all forms of violence and discrimination. In the outcome document of the high-level plenary meeting of the General Assembly known as the World Conference on Indigenous Peoples, which focused on indigenous women, the participating Heads of State and Government, ministers and representatives of Member States invited the Human Rights Council to consider examining the causes and consequences of violence against indigenous women and girls, in consultation with the Special Rapporteur on violence against women, its causes and consequences, the Special Rapporteur on the rights of indigenous peoples and other special procedures mandate holders.[1]

8. Despite the progress made, systematic attention to the specific vulnerability of indigenous women has remained limited in relation to the scale of abuses against them. Furthermore, what international attention has been given to the issue has not sufficiently focused on the nexus between individual and collective rights, nor on how intersecting forms of discrimination and vulnerability contribute to ongoing abuses of indigenous women's rights. That has created a gap that has contributed to ongoing widespread impunity in relation to the rights of indigenous women and girls.

9. There have been some promising signs of progress towards closing that gap, such as the efforts taken by indigenous women to empower themselves by establishing their own organizations and networks, and making their issues more visible at national and global levels. Indigenous women's participation in the United Nations world conferences on women has increased with time, the highlight being the conference in Beijing in 1995, where participants ensured references to indigenous women and achieved the adoption of the Beijing Declaration of Indigenous Women, which has served as a guiding framework in many of their subsequent efforts to build and strengthen their organizations. It must be recognized that the United Nations has established a solid gender equality and women's rights regime, which has opened up more possibilities for indigenous women to engage in debates on gender issues. Several Special Rapporteurs, including the previous rapporteurs on indigenous peoples' rights, have contributed through raising awareness of issues facing indigenous women and have made relevant recommendations.

10. To contribute to addressing any continuing gaps in monitoring and implementing the Declaration on the Rights of Indigenous Issues, the Special Rapporteur dedicates the present report to the issue of indigenous women and girl's rights. While recognizing the great diversity in the experiences of indigenous women, she will take a global approach,

[1] See General Assembly resolution 69/2, para. 19

focusing on common themes and patterns experienced by indigenous women across regions. The Special Rapporteur will highlight examples of specific rights violations and issues from different countries, which are illustrative but not exhaustive. In analysing the situation of indigenous women, she will consider both the gendered forms of violations against indigenous women and the gendered effects of human rights abuses that target indigenous communities as a whole. In that way, the Special Rapporteur hopes that the forms of oppression, discrimination and violence that indigenous women face —because they are women and because they are indigenous — can be better understood.

A. Collective rights

Self-determination

11. A cornerstone of the Declaration on the Rights of Indigenous Peoples, self-determination is defined as both a choice to determine political status, as well as the right to have autonomy over economic, social and cultural development. Self-determination is a right in itself and has been conceptualized as a precondition for the fulfilment of other rights.

12. When examining the rights of indigenous women and girls, it is vital to consider the unique historical experiences of indigenous communities. Many forms of violence and abuse against indigenous women and girls have a strong intergenerational element. Violations of the broad right to self-determination of indigenous peoples are historically and currently endemic. Those have included gross and sustained assaults on the cultural integrity of indigenous peoples; denigration and non-recognition of customary laws and governance systems; failure to develop frameworks that allow indigenous peoples appropriate levels of self-governance; and practices that strip indigenous peoples of autonomy over land and natural resources. Those patterns of violations are vividly exemplified by colonization, but have also been perpetuated by post-colonial power structures and State practices. Those violations of the right to self-determination have been highly detrimental to the advancement of the rights of indigenous women and girls in a number of ways.

13. The response of indigenous communities to attacks against self-determination has, at times, additionally subjugated the rights of women. In the battle for indigenous communities to assert their right to self-determination, women's rights have often been considered divisive and external to the indigenous struggle and connected to "external values" or "Western values" that privilege individual over communal rights. Such a false dichotomy between collective and women's rights has, paradoxically, further entrenched the vulnerability of indigenous women to abuse and violence. Indigenous women are therefore stripped of their right to self-determination by both violations against their collective rights, as members of indigenous communities, and violations against their individual rights, as sub-collectives within those communities.

14. Such multiple victimization and the denial of the agency of indigenous women has had a pronounced impact on the prevalence of violence and abuses through the entrenchment of power structures that create and perpetuate systematic vulnerability. The further loss of women's agency caused by those violations then negatively impacts collective efforts to fight group rights, thereby contributing to negative cyclical patterns.

Land rights

15. A strong link to the land, territory and natural resources is a characteristic that is commonly associated with indigenous peoples. Despite relevant provisions in international human rights law, indigenous peoples experience weak protection of their land and property

rights, which exposes them to risks of displacement, expropriation and exploitation. Indigenous peoples inherent the right to the land that they traditionally occupy and use. They often do not hold formal titles to their land and their right to such land is one of the rights most violated. That allows Governments to impose destructive development projects or to lease and sell indigenous land without obtaining their free, prior and informed consent. Large-scale economic projects have been constructed on indigenous lands. Additionally, mass tourism has been encouraged in areas that are of significance to indigenous peoples. The implementation of those projects has repeatedly caused forced displacement and migration, ecological degradation and armed conflicts. Furthermore, the commodification of land that is inherent in such practices is an assault on indigenous cultures and the importance placed on land.

16. Land appropriation is not gender neutral and indigenous women's rights interact with violations of collective land rights. In indigenous communities where matriarchy and matrilineal practices exist, the loss of land will likewise undermine indigenous women's status and roles. The gendered effects of those violations become manifest in situations where indigenous women lose their traditional livelihoods, such as food gathering, agricultural production, herding, among others, while compensation and jobs following land seizure tend to benefit male members of indigenous communities. The loss of land and exclusion of women can create vulnerability to abuse and violence, such as sexual violence, exploitation and trafficking. Additionally, the secondary effects of violations of land rights, such as loss of livelihood and ill health, often disproportionally impact women in their roles of caregivers and guardians of the local environment.

17. External threats to indigenous land rights are not the only cause of abuses of women's rights in relation to land. The roles that women hold within indigenous communities and the way that some indigenous property frameworks reflect patriarchal power structures. Indigenous women commonly experience significant barriers to holding and inheriting land, especially when they are widowed.

B. Economic, social and cultural rights

Poverty

18. Indigenous peoples account for 5 per cent of the world's population, while representing 15 per cent of those living in poverty. As many as 33 per cent of all people living in extreme rural poverty globally are from indigenous communities.[2] Those figures are particularly alarming given the wealth of natural resources that are located within indigenous territories. That level of poverty is a violation of indigenous people's rights to development, as well as their economic and social rights to an adequate standard of living, housing, food, water, health and education. Such poverty is deeply interrelated with abuses of land and self-determination. The denial of self-determination in relation to development pathways and control over natural resources is also a central causal factor in the prevalence of poverty among indigenous communities. It is related to and mutually reinforced by the exclusion of indigenous people's perspective and agency from dominant development paradigms.

19. High unemployment is an important issue in relation to the poverty experienced by indigenous communities, as indigenous peoples are disproportionally represented within the world's unemployed. When indigenous people are employed they often face wage

[2] United Nations Development Programme (UNDP), *Sustaining human progress: reducing vulnerabilities and building resistance*, Human Development Report 2014, p. 3.

discrimination and exploitation in the workforce, which further fuels poverty. The following are some examples of those trends:

(a) In Australia, the indigenous unemployment rate was 15.6 per cent in 2006, that is, just over three times higher than the non-indigenous unemployment rate, while the median indigenous income was around half of the non-indigenous income;

(b) In the western provinces of Manitoba, British Columbia, Alberta and Saskatchewan, Canada, unemployment among indigenous people was as high as 13.6 per cent, but stood at only 5.3 per cent among the non-indigenous population;

(c) In New Zealand, the unemployment rate for the Maori is more than twice as high as the national average (7.7 per cent compared to 3.8 per cent) and the income of indigenous households is 70 per cent that of the national average.[3]

20. Some of the poverty reduction initiatives put in place to support indigenous communities are not always culturally sensitive and are therefore ineffective. For example, the practice of providing conditional cash transfers to poor indigenous families in exchange for compliance with preconditions, such as sending their children to school or requiring pregnant women to go for check-ups and to deliver in rural clinics or hospitals. Such practices have tended to be blind to the cultural values of indigenous peoples and also do not address the specific root causes of poverty.

21. Indigenous women are directly affected by poverty and weaknesses in programmes designed to tackle it, as well as by unemployment trends and wage-related discrimination. The multiple forms of discrimination, based on gender, age, socioeconomic situation and ethnic origin, experienced by indigenous women make them highly vulnerable to poverty. In addition, the overall poverty experienced by indigenous peoples tends to have a disproportionate impact on women, due to their role as caregivers and managers of resources.

Right to food

22. Food insecurity is not well-managed or understood within indigenous peoples due to a severe lack of relevant data. However it is widely recognized that indigenous people experience significant food insecurity and therefore suffer with widespread violations of their right to food. A range of interconnected and mutually reinforcing factors contributes to significant levels of food insecurity. As identified by the Food and Agriculture Organization of the United Nations, loss of a culture, land and insecure access to lands, territories and natural resource have been key drivers of this phenomenon amongst indigenous communities. Like poverty, violations of the right to food affect indigenous women directly and also have a disproportionate impact on them because of their roles as food and water providers, caregivers and managers of resources.

23. There is an emerging trend whereby indigenous peoples' lands are being grabbed by political and business actors who want to set up industrial food production farms or lands for production of biofuels, such as sugar cane and jatropha. Indigenous peoples' livelihoods such as rotational agriculture, pastoralism, hunting and gathering which have ensured food security for them are now increasingly being threatened. These have lead to the destruction of indigenous women's livelihoods that are land-based.

[3] Permanent Forum on Indigenous Issues, *State of the world's Indigenous peoples*, 2010.

Right to education

24. Indigenous peoples, in particular women, tend to have low levels of educational attainment and literacy compared with non-indigenous populations. That situation is a violation of the right to everyone to an education. Such violations of the rights of indigenous persons to an education are multi-dimensional and brings into consideration the issues of access, quality and inclusion.

25. Indigenous children's inability to access education is generally caused by the geographical and political marginalization of indigenous communities. When education is available, it is often blind to the specific needs of indigenous children. Curricula are often not taught in indigenous languages, which undermines indigenous children's ability to achieve school readiness and express their cultural identity in school. National school curricula tend to have very little, if any, focus on indigenous peoples, their issues and histories. Some national curricula even reinforce negative cultural stereotypes about indigenous peoples and indigenous students frequently find that the education provided by the State promotes individualism and a competitive atmosphere, rather than communal ways of life and cooperation. It is also common for indigenous children to experience racism and discrimination and ethnically motivated bullying in school. Furthermore, the education available to indigenous children is not always of adequate quality. The physical buildings in which indigenous children are educated can also fail to be fit for purpose, and teaching staff and materials may also be of poor quality.[4]

26. Some indigenous peoples prefer to set up their own indigenous schools, which ensure that traditional knowledge holders are involved in teaching and their culture is valued. In some countries, indigenous peoples initiate the setting up of schools because the State does not provide schooling in their communities owing to the remoteness of the location or the small population size. The Special Rapporteur noted that in some indigenous territories which have become sites of armed conflicts, the army or paramilitary personnel occupy schools, which are therefore required to close down.

27. As a result of those factors, indigenous children often experience significant gaps in educational attainment compared with non-indigenous populations and dropout rates are high among indigenous children. For example, in Bolivia (Plurinational State of), Ecuador, Guatemala, Mexico and Peru, there is an average gap of three years between indigenous and non-indigenous children in relation to the schooling undertaken by those aged 15 or older. Those trends are mirrored in other countries with indigenous populations. The gaps between indigenous and non-indigenous educational attainment are also reflected in the proportion of those attending post-secondary education institutions.[5]

28. In that connection, indigenous girls tend to be more disadvantaged than indigenous boys.[6] In additional to the factors impacting overall indigenous dropout rates, girls can experience a number of additional barriers. Firstly, their role within communities often means that they are expected to help with domestic and care responsibilities. Secondly, indigenous girls may also be subjected to child marriage, so that their roles as wives and

[4] See UNDP, Human Development Report 2014 (see footnote 2); Permanent Forum on Indigenous Issues, *State of the world's Indigenous peoples*, 2010; and United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women), United Nations Children's Fund (UNICEF), United Nations Population Fund (UNFPA), International Labour Organization (ILO) and Office of the Special Representative of the Secretary-General on Violence against Children, *Breaking the silence on violence against indigenous girls, adolescents and young women: a call to action based on an overview of existing evidence from Africa, Asia Pacific and Latin America*, May 2013.

[5] Permanent Forum on Indigenous Issues, *State of the world's Indigenous peoples*, 2010.

[6] Ibid.

sometimes child bearers mean that they have to leave school. Thirdly, indigenous girls may face the risk of sexual violence and rape during long journeys to school, as evidenced in the report of the Working Group on Discrimination against Women in Law and in Practice on its visit to Peru.[7] The significance of this barrier to education is exacerbated by the presence of legislation in some States that prohibits women and girls from being able to seek abortion services, even if they become pregnant following rape.[8]

Right to health

29. There are examples of profound physical and mental health inequalities between indigenous and non-indigenous people. For example:

(a) In the United States of America, a Native American is 600 times more likely to contract tuberculosis than a non-Native American;

(b) Worldwide, over 50 per cent of indigenous adults suffer from type 2 diabetes;

(c) Indigenous peoples' life expectancy is up to 20 years lower than their non-indigenous counterparts;

(d) Indigenous peoples experience disproportionately high levels of maternal and infant mortality, malnutrition, cardiovascular illnesses, HIV/AIDS and other infectious diseases, such as malaria and tuberculosis;

(e) Suicide rates of indigenous peoples, particularly among youth, are considerably higher in many countries. For example, the suicide rate for Inuit in Canada is around 11 times the national average;

(f) Child mortality rates among indigenous communities are usually above the national average.[9]

30. Many of those poor health outcomes are influenced by modifiable risk factors, such as drug abuse, poor nutrition and alcoholism, which have worryingly increased within indigenous communities. The increase in risk factors has been identified as being strongly connected with the historical colonization and dispossession of indigenous peoples, which has resulted in the fragmentation of their social, cultural, economic and political institutions.[10]

31. Against the backdrop of growing physical and mental health concerns, non-indigenous health systems often do not take into account the indigenous concept of health, and therefore create barriers to access by indigenous people. Epidemiological data often fails to capture information on indigenous communities and the socioeconomic determinants of health, thereby making them "invisible". If data is included, it is generally not disaggregated, so that the specific needs of indigenous women are not understood in the context of national healthcare policy and planning. In addition, there are often no clear integration mechanisms for health care personnel, communities, traditional healers, policy makers and government officials. Furthermore, the facilities available to indigenous communities and women are also often not suitable to their specific needs and cultural preferences.

32. Women acutely feel the low levels of health within indigenous communities. They are disproportionately affected by illness owing to reduced coping capacity caused by the

[7] A/HRC/29/40/Add.2.
[8] Ibid.
[9] Permanent Forum on Indigenous Issues, *State of the world's Indigenous peoples*, 2010.
[10] Ibid.

denial of broader rights. Women also play a primary role in overseeing the health and well-being of their families and communities, and can be particularly affected by the suffering of children and other family members. Their gender and role as child-bearers also make them vulnerable to specific health difficulties.

33. A grave gender-specific health concern is the issue of indigenous women's sexual and reproductive health. Indigenous women face many barriers to sexual and reproductive rights, such as a lack of culturally appropriate sexual and reproductive health advice, geographical access to facilities and lack of supplies, such as contraceptives, poor quality care and, in some cases, legislation banning abortion services, even in cases of pregnancy following rape. That leads to higher-than-average maternal mortality rates; disproportionate representation of indigenous girls in teenage pregnancy indexes; low voluntary contraceptive usage; and high rates of sexually transmitted diseases and HIV/AIDS.

34. There have also been severe historical violations of indigenous women's rights in relation to sexual and reproductive rights in the context of denial of their rights to self-determination and cultural autonomy. Those violations include forced sterilization of indigenous women and attempts to force indigenous women to have children with non-indigenous men as part of policies of cultural assimilation. Indigenous women may also face barriers to preventive services that support their right to health, such as screening for ovarian and breast cancer.

Cultural rights

35. Abuses of indigenous people's cultural rights are endemic, owing to a sustained unwillingness on the part of many States to celebrate indigenous culture or to promote the use of indigenous languages in schools as part of the cultural diversity of citizens within their borders. That has a cross-cutting effect on the rights of indigenous women and children. Lack of respect for indigenous cultures is evident across all violations of indigenous peoples and is a fundamental part of the experiences of indigenous women and girls. The commodification of the cultures and cultural heritage of indigenous peoples is a common experience for many indigenous peoples. For example, indigenous territories have been declared World Heritage Sites without their free, prior and informed consent, thereby turning them into tourist areas. In most cases, the people who reap the biggest benefits are foreign or national travel and tour agencies or hotel owners. In those cases, indigenous women often end up as menial employees or entertainers for tourists. At worst, prostitution is encouraged and criminal syndicates promote trafficking of indigenous women and girls.

C. Civil and political rights

Racism and racially motivated discrimination

36. As indicated in the concluding observations of the Committee on the Elimination of Racial Discrimination, indigenous peoples face persistent and multifaceted forms of racism and racial discrimination. Such discrimination is intimately interconnected and mutually reinforcing with the spectrum of violations experienced by indigenous peoples.

37. Indigenous women and girls experience racism and racial discrimination as members of indigenous communities. Such violations of their rights also increase their vulnerability to other human rights abuses, as they are part of the intersecting forms of discrimination and inequality that they face.

Participation in public and political life

38. Indigenous women have the right to participate in public and political decision-making processes. That right stems broadly from the right to self-determination, as well as

from the provisions of the Convention on the Elimination of All Forms of Discrimination against Women. However, in reality, indigenous women are often excluded from both indigenous decision-making structures and local and national political processes in States. As highlighted by the Committee on the Elimination of Discrimination against Women, there are very few indigenous women in national and local political processes and in some countries, there are none at all.[11] Indigenous power structures and self-governance agreements tend to be patriarchal and exclude the involvement and perspectives of women.

39. Female indigenous human rights defenders have faced particular challenges when exercising their right to participate in public life. Female human rights defenders play a vital role in protecting women in indigenous communities and can be valuable resources to States in the context of balancing their duty to protect all women and the need to respect the right to self-determination and autonomy of indigenous communities. However, in a number of countries, the activities of female human rights defenders from indigenous communities have been criminalized and they have been subjected to severe forms of violence. For example, in Oaxaca, Mexico, female human rights defenders were reported to have been killed recently.[12]

Indigenous women and criminal justice

40. Data and comprehensive comparative research on indigenous women and the criminal justice system are very underdeveloped. However, reports suggest that indigenous women are overrepresented in the criminal justice systems and the number of indigenous women in custody is increasing in a number of countries, including Australia, Canada and New Zealand. What limited data is available suggests that the incarceration of women is increasing at a significantly quicker rate than that of men. Some relevant statistics include the following:

(a) Estimates suggest that Maori women in New Zealand represent 40 to 60 per cent of the female prison population, while the Maori people represent around 15 per cent of the general population;[13]

(b) Maori women were also overrepresented for imprisonment and intensive supervision (accounting for 51 per cent of sentences imposed) and underrepresented for more lenient dispositions, such as reparation orders (39 per cent) and fines and discharges (both 33 per cent);[14]

(c) In 2010, 30 per cent of incarcerated women in Australia were reported to be indigenous;[15]

(d) Between 2000 and 2010, in Australia, the imprisonment rate for women increased by 60 per cent, compared to 35 per cent for men;[16]

(e) From 1996/97 to 2001/02, in Canada, the number of federally sentenced aboriginal women increased by 36.7 per cent, compared with 5.5 per cent for aboriginal men.[17]

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[11] Concluding observations of the Committee on the Elimination of Discrimination against Women.

[12] Amnesty International, "Eyewitnesses to killing of defenders harassed", 10 February 2015; Office of the United Nations High Commissioner for Human Rights, "Human rights defenders continue to pay with their lives in Mexico, warn UN experts", press release, 12 May 2010.

[13] Native Women's Association of Canada, "Aboriginal women and the legal justice system in Canada", issue paper (June 2007).

[14] Ibid.

[15] Creative Spirits/Jens Korff, "Aboriginal prison rates" (8 June 2015).

[16] Ibid.

41. Those trends have a number of implications in relation to the human rights of indigenous women and girls. When looked at through a human rights lens, it is clear that many indigenous women and girls have difficulties with the law because of prior violations of their human rights. Issues associated with disregard for collective and individual indigenous rights — such as abuse of women, mental health problems and poverty — have been identified as causal factors in criminal behaviour among indigenous women. Furthermore, issues relating to indigenous women's access to justice, as discussed below, must be considered within criminal justice.

42. Indigenous women may also be more vulnerable than non-indigenous women once they are in detention. There have been reports of a lack of women's facilities to accommodate indigenous women, which means that they could be housed with men. That leaves them vulnerable to violence and unable to access gender-specific programmes and support. There have also been reports of racism and discrimination against indigenous women in prisons, as well as inadequate access to health services.

Right to remedy

43. Indigenous women are routinely denied their right to remedy for abuses of their human rights. There is a historical and group dimension to the denial of women's right to remedy. The failure of Governments to acknowledge and provide remedy for historical abuses of indigenous communities contributes to the ongoing vulnerability of indigenous women.

44. Currently, in numerous countries, indigenous women are marginalized in both national and indigenous justice systems. At the national level, judicial remedies and mechanisms are often not available to indigenous women owing to a range of cultural and linguistic factors. Indigenous justice systems, on the other hand, tend to be male dominated and do not always allow adequate space for women's voices or participation. While customary or informal justice systems differ from one indigenous community to another, they may fail to offer genuine recourse to justice. For example, the Aboriginal Justice Inquiry of Manitoba, Canada, identified bias in favour of the male partner in indigenous domestic abuse situations and criticized Chiefs and Councils for being unwilling to address the plight of women suffering abuse at the hands of husbands or partners.

45. The challenges facing indigenous women in seeking justice can be complicated by the increase in private forms of remedy for violations perpetrated by business-related actors. As reported by MiningWatch Canada and Amnesty International at the third annual Forum on Business and Human Rights, held in 2014, private companies often offer women who have been victims of extreme violence, such as gang rape, access to corporate-led grievance mechanisms. A precondition for accessing such mechanisms is signing an agreement not to sue the company, so that judicial remedy is blocked. There have been reported cases of women receiving compensation that was shockingly disproportionate to the severity of the violations of their human rights.

D. Multiple forms of violence

46. The issue of violence against women is indivisibly linked to the categories of rights discussed above. In fact, the endemic violations of collective, civil and political, and economic, social and cultural rights can be seen as constituting a form of structural violence

[17] Native Women's Association of Canada, "Aboriginal women and the legal justice system" (see footnote 13).

against indigenous women and girls. Structural violence results in women being victimized by the realities of the circumstances of their everyday life and routinely excluded from the rights and resources otherwise guaranteed to citizens. Structural violence is interlinked and mutually reinforcing with other forms of violence, as discussed below.

Sexual violence

47. Indigenous women are significantly more likely to experience rape than non-indigenous women. It has been estimated that more than one in three indigenous women are raped during their lifetime. Behind these shocking statistics are multiple forms of sexual violence against indigenous women by a multitude of actors in different geographical regions. Coordinated and comparative information on sexual violence is very limited, due in part to significant underreporting and a lack of investment in disaggregated data collection that include indigenous women and communities. That makes analysis of systemic level prevalence and trends very difficult. Different forms of sexual violence have been reported, including the following:

(a) Rape, which can be perpetrated by individuals known to the indigenous woman and girl, as a form of control, punishment and/or abuse;

(b) Large numbers of indigenous women and girls work in domestic households. Domestic work is outside of the regulatory framework for employers, which leaves women and girls isolated and vulnerable to rape and abuse by employers;

(c) Women have reportedly been subjected to harassment, extortion and rape by State officials at border crossings. For example, Miskito women, whose territories straddle Nicaragua and Honduras and who cross national borders every day to work their lands or to gather medicinal plants, are routinely exposed to sexual violence. In addition, military officials may perpetrate sexual violence as a weapon to weaken the resolve of indigenous communities in militarized disputes over land and resources;

(d) In the United States, large numbers of indigenous women have experienced rape perpetrated by men outside of their communities. According to statistics, Native American and Alaska Native women are more than 2.5 times more likely to be raped or sexually assaulted than other women in the United States; and 86 per cent of the reported cases of rape or sexual assault against American Indian and Alaska Native women are perpetrated by non-Native men;

(e) Indigenous women have reportedly been subjected to sexual violence by men from other indigenous groups. In the Great Lakes Region of Africa, one Batwa woman reported that Bantu men violated Pygmy women from the Congo, claiming that they did it to treat medical complaints;

(f) There have been reports from NGOs that indigenous women have been raped by individual and multiple perpetrators in the context of business activities on indigenous lands.[18]

[18] See, for example, Mairin Iwanka Raya. *Indigenous women stand against violence: a companion report to the United Nations Secretary-General's study on violence against women* (International Indigenous Women's Forum, 2006), Permanent Forum on Indigenous Issues, *State of the world's Indigenous peoples*, 2010, UN-Women and others, *Breaking the silence* (see footnote 4), Amnesty International, *Maze of injustice: the failure to protect Indigenous women from sexual violence in the USA* (New York, 2007), and Reports from non-governmental organizations to the 2014 United Nations Forum on Business and Human Rights.

48. The variety of forms of sexual violence reflects, to some extent, the different experiences of indigenous women and girls around the world. It also reflects the multidimensional ways in which indigenous women are vulnerable to violence and the severe threat of revictimization.

Gender-based killings

49. Gender-based killings have been defined by the Special Rapporteur on violence against women, its causes and consequences, in her 2012 report (A/HRC/20/16), as direct or indirect gender-motivated killings, which take place in the family, in communities and which are sometimes perpetrated or condoned by States through act and/or omission. She describes such killings as an extreme form of violence, which is part of a continuum of violence that is influenced by the sources of structural vulnerability in place in women's lives. In her report, the Special Rapporteur described how the phenomenon can impact indigenous women, as a result of their social, cultural, economic and political marginalization and oppression that culminates in violence. Gender-based killings of indigenous women can take a variety of forms, including murder within communities; retaliation for defending their human rights; conflict-related; in the context of displacement from their communities due to dispossession of land; reports of "missing women" who are assumed to have been killed.

50. The Native Women's Association of Canada and Amnesty International document and report cases of missing and murdered indigenous women and girls in Canada. Those reports have been submitted to the Permanent Forum on Indigenous Issues, the Committee on the Elimination of Discrimination against Women, the Inter-American Commission on Human Rights, as well as to the previous and current Special Rapporteurs on the rights of indigenous peoples. Statistics from the Royal Canadian Mounted Police, in 2014, indicate that indigenous women are four times more likely to be murdered than non-indigenous women. The report also states that 1,017 indigenous women and girls were murdered between 1980 and 2012.[19] The bodies mentioned above have put forward several recommendations, including the following: (a) a national action plan to end violence against indigenous women, which addresses the root causes of violence and identifies holistic, culturally-appropriate ways to prevent violence and support those affected by violence; (b) a national public inquiry into missing and murdered indigenous women, focusing on exposing the nature of that form of violence and on ensuring Government and police accountability for an effective and coordinated response; and (c) regular, comprehensive data collection on violence against indigenous women in official crime statistics. Unfortunately, the long-awaited national public inquiry has not yet taken place. As recommended by the previous Special Rapporteur on the rights of indigenous peoples and the Committee on the Elimination of Discrimination against Women, the Canadian Government should undertake a full, independent inquiry into the cases of missing and murdered aboriginal women and girls.[20]

Violence in the context of conflict

51. Indigenous women are often caught in the crossfire of conflict situations and subjected to militarized violence. Conflicts may be between different ethnic groups and may also involve government forces and business actors. Indigenous women and girls have

[19] Royal Canadian Mounted Police, *Missing and murdered aboriginal women: a national operational overview*, 2014.

[20] See, for example, A/HRC/27/52/Add.2, para. 89; CEDAW/C/OP.8/CAN/1, recommendations, part D, p. 51.

been victims of gender-based violence in conflicts for example in Colombia, Guatemala, Mexico, Nicaragua, Peru, the Philippines and Nigeria.

52. As noted by the Rapporteur on the Rights of Women of the Inter-American Commission on Human Rights, the situation of indigenous women and girls is particularly critical in the context of armed conflict, given that they are already exposed to multiple forms of discrimination. That again shows the impact that intersecting forms of inequality and discrimination can have on indigenous women.

53. Examples of violence against women in a military context include the following:

(a) In Colombia, indigenous women and girls are commonly subjected to patterns of rape, forced prostitution and exploitation in the context of occupation of indigenous land;

(b) In Bangladesh, indigenous women face multiple forms of discrimination and there is a high prevalence of sexual violence, including as a weapon in community conflict in rural areas;

(c) In the States of Karen, Karenni, Mon and Shan, Myanmar, indigenous women are in daily contact with the soldiers of the Burmese army that occupies the area. The Rapporteur has found that rape of indigenous women is not only a form of "entertainment" for the soldiers, but part of a strategy to demoralize and weaken the indigenous communities. Soldiers reportedly use rape to coerce women into marriage and to impregnate women as part of the forced cultural assimilation policy;

(d) In Fiji, India, Myanmar, Nepal, the Philippines, Thailand and Timor-Leste, the militarization of conflict over indigenous land has led to gang-rape, sexual enslavement and killing of tribal women and girls;

(e) There have been reports of indigenous women in the Democratic Republic of the Congo being victims of rape by armed groups and the military;

(f) In north-western Kenya, British soldiers stationed in the area since the 1980s have reportedly raped more than 1,400 Masai and Samburu women. Rape survivors and their families still suffer from the legacy of those attacks, such as stigmatization of families with mixed-race children.[21]

Violence in the name of tradition

54. As discussed by the Special Rapporteur on violence against women, its causes and consequences in her 2007 thematic report, culture-based identity politics can be used to justify violence against women in the name of traditional practices and/or values.[22] Practices commonly carried out in the name of tradition, such as female gender mutilation and child marriage, impact some but not all indigenous communities. The fact that those traditional practices cut across religious, geographical and ethnic characteristics demonstrate that there are multidimensional causal factors and that no one factor attributed to the identity of women makes them vulnerable. Violations suffered by indigenous women and girls must be viewed within the context of the broad spectrum of violations experienced and their specific vulnerabilities as members of indigenous communities.

55. The World Health Organization (WHO) estimates that between 100 million and 140 million women and girls worldwide have been subjected to female gender mutilation.

[21] Mairin Iwanka Raya, *Indigenous women stand against violence* (see footnote 18), UN-Women and others, *Breaking the silence* (see footnote 4).

[22] See A/HRC/4/34.

Female genital mutilation has been documented mainly in Africa, but also in some countries in the Middle East, Asia, and Central and South America. As recognized by WHO, there are no benefits to female genital mutilation; in fact, the procedure can have many negative consequences for women, including infection, complications in childbirth, pain, infertility and cysts, as well as their overall disempowerment within society. There is very little information about the prevalence and drivers of female genital mutilation among indigenous communities, but it is known to take place in some but not all indigenous communities.

56. Similarly, little disaggregated information is available about the specific dynamics of child marriage in indigenous communities, but it is known to take place in some communities. Much of the literature on child marriage demonstrates a strong link with poverty, therefore, the broader human rights violations of indigenous women and girls are likely to be strong causal factors for child marriage. Child marriage is not only a form of violence, but also a violation of the child's rights to education and family life. Child marriage can also lead to violations of the rights to life and health, as young girls often experience complications with pregnancy and childbirth, which can result in death. In addition, child marriage creates vulnerability to marital rape.[23]

Domestic violence

57. Information on domestic violence is limited due to underreporting and lack of investment in data collection. Nonetheless, available data suggests that indigenous women are significantly more likely to be victims of domestic violence than non-indigenous women.

58. Domestic violence can have grave consequences for victims, including mental health problems, substance abuse, severe health issues and difficulties in providing care to children. Those consequences may be felt more acutely by indigenous women owing to lack of access to support services and justice, as well as their specific cultural and economic circumstances.

59. Domestic violence must be considered within the context of the broader human rights abuses of indigenous communities. A number of potential root causes have been identified, many of which are linked to human rights issues specific to indigenous peoples and historical violations of their rights, including a violent family environment; abusive State policies at a young age; financial problems and poverty; unemployment; lack of education; poor physical and mental health; racism-induced stress; denial of rights to self-determination, land and culture, among others, leading to loss of identity and self-esteem; and a breakdown of community kinship systems and Aboriginal law. While nothing can negate domestic violence, which is a serious crime, strategies for its reduction and elimination must take into account both its causes and consequences through a holistic and human rights-based lens. Interventions such as support and recovery services must also be sensitive to the specific needs of indigenous women and girls.

Trafficking

60. Compelled by economic need, armed conflict and denial of self-determination and land rights in the context of major economic development projects, many indigenous peoples migrate from their home communities in rural areas to urban centres. Indigenous women and girls who leave their communities are highly vulnerable to trafficking, which

[23] See Human Rights Watch, section on child marriage, available at www.hrw.org/topic/womens-rights/child-marriage

can lead to multiple violations of their human rights, including severe economic and sexual exploitation and sexual violence. There are also cases of indigenous women being targeted by organized traffickers within their own communities. Reports of trafficking of indigenous women and children include the following:

(a) In the Miskitu communities of Nicaragua, indigenous women have reported the phenomenon of selling and trafficking of indigenous girls and boys, citing communitarian violence as the cause;

(b) In a number of Asian countries, including Cambodia, India, Nepal and Thailand, indigenous women are trafficked from their communities into domestic servitude or forced prostitution;

(c) Trafficking of indigenous women for the purpose of exploitation has been reported in Mexico;

(d) Indigenous women in Canada are reported to be at a greater risk of trafficking for the purposes of sexual exploitation than non-indigenous women.[24]

IV. Key challenges and promising practices

A. Key challenges

Gaps and weaknesses in monitoring systems and implementation

61. Systematic analysis of the conclusions of United Nations human rights mechanisms conducted for this report showed significant gaps and weaknesses in relation to the rights of indigenous women and girls. The Special Rapporteur appreciates the attention of other mechanisms and agencies, in particular special procedures mandate holders, treaty bodies and the United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women), and hopes that the developing focus on indigenous women's rights continues to grow.

62. Gaps and weaknesses in some human rights and development monitoring mechanisms include:

(a) The lack of geographical balance in relation to the comments made by the different mechanisms;

(b) Failure to discuss the role that intersecting forms of vulnerability and discrimination plays in violations of the rights of indigenous women and girls;

(c) Limited exploration of the nexus between individual and collective rights;

(d) The absence of gender analysis when discussing issues that impact indigenous communities.

63. Similarly, a number of development and other policy mechanisms, including the Millennium Development Goals, the proposed sustainable development goals and the Beijing Platform for Action, have given disproportionally low attention relative to needs.

[24] See, for example, Mairin Iwanka Raya, *Indigenous women stand against violence* (see footnote 18); Arun Kumar Acharya and Manuel R. Barragan Codina, "Poverty and trafficking of Indigenous women in Mexico: some evidence from Chiapas State", *Journal of Sustainable Society*, vol. 1, No. 3, 2012, pp. 63-69; and Native Women on Canada Association, *Sexual exploitation and trafficking of aboriginal women and girls*, Literature review and key informant interviews (March 2014).

64. These gaps and weaknesses in the monitoring and implementation of the human rights of indigenous peoples contribute to a culture of impunity and render the violations of rights invisible to international and national policy makers and legislators.

A lack of disaggregated data

65. The effects of those gaps and weaknesses in monitoring are compounded by systemic weaknesses in national data collection systems in relation to understanding indigenous peoples. There is the lack of disaggregated population data, which includes statistics on indigenous women within these groups. In addition, specific information on human rights violations, including those perpetrated against women, is rarely available. That has impeded understanding and comparison of situations of indigenous women and girls, as well as the development of clear accountability structures. Deficiencies in understanding and accountability are powerful barriers to effective strategies for combatting violations of indigenous women's rights.

A lack of inclusive birth registration systems

66. Many countries do not have birth registration systems that robustly provide certification of the births of all indigenous children, which exacerbates the lack of monitoring and disaggregated data. Such lack of birth registration systems places indigenous children and people in a situation of increased vulnerability because they are invisible within the State system. Other consequences include no or limited access to social, health and educational services and increased vulnerability to statelessness or trafficking.

67. Lack of birth registration also compounds statistical gaps in relation to indigenous peoples and their correlative invisibility within political and policy debates.

Neo-liberal economic and development paradigms

68. Neo-liberalism is an economic paradigm that champions the power of market forces and argues that, if left unregulated, markets will deliver global development. Neo-liberalism grew in dominance in the latter part of the twentieth century and infiltrated development policy. The entry of foreign direct investments in indigenous territories to exploit mineral resources and establish mega-infrastructure projects without the free, informed and prior consent of the citizens impacted by market liberalization and deregulation has led to systematic violations of indigenous land rights and self-determination. The global dominance of neo-liberalism has led to development that is measured by overall growth figures, but which gives little weight to whether such development leads to a reduction in inequality or poverty alleviation therefore significantly disadvantaging vulnerable groups, such as indigenous peoples and women.

69. Another way in which neo-liberalism has affected indigenous peoples and women are related to the structural adjustment policies of the International Monetary Fund and the World Bank. Such policy interventions, which are based on neo-liberal doctrines, prescribe harsh fiscal austerity programmes as a remedy for economic underdevelopment and a high ratio of indebtedness in relation to gross domestic product. Dramatic decreases in government spending routinely result in cuts to vital services, which disproportionally impact the most vulnerable, including indigenous women.

Issues of jurisdiction

70. There are often complex relationships between the customary jurisdictions of indigenous communities and the national justice systems, which can have a number of implications for women who are victims of violations of their human rights. Firstly, the relationships can create confusion with regard to responsibility for incidences of violence

and discourage reporting by women. When women do come forward, there may be complicated tensions between jurisdictions relating to competence to prosecute, which can create delays and thereby prolong the suffering of the victim and discourage women from reporting violence in the future. Loopholes in the rules governing the relationship between jurisdictions can also make it possible for perpetrators to evade prosecution.

Community dynamics and stigma

71. Indigenous systems of governance and power structures are often highly gendered and may exclude women and their perspective from administration of justice and control over the development of social standards and decisions, which impacts women's vulnerability to abuses of their human rights. Indigenous communities tend to be tight-knit, which can serve to protect perpetrators and silence women, and there is also often a high level of stigma associated with being a victim of violence so that indigenous women are often afraid to report violence for fear of being ostracized within the community. Furthermore, the close-knit nature of indigenous communities and the social stigma of violence may restrict women's ability to seek justice within other jurisdictions.

B. Promising practices

72. Despite the significant constraints facing them, there are many instances where indigenous women having successfully mobilized to fight for their rights. Those successes have led to the development of promising practices in relation to the respect and protection of indigenous women. The following examples of good practice are illustrative and not exhaustive:

(a) As observed by the Special Rapporteur on violence against women, its causes and consequences, the tribal justice system of the Eastern Band of Cherokee Indians in the United States has an effective infrastructure to provide safety of women within their jurisdiction, including dedicated codes to address domestic violence and training for personnel of tribal law enforcement authorities, tribal courts, prosecutors and probation officers. Furthermore, tribal courts have ordered that offenders enrol in re-education programmes and tribes support programmes to encourage boys and young men to respect women;[25]

(b) Numerous tribes, such as the Eastern Band of Cherokee Indians, maintain the practice of banishing perpetrators of violence against women from their tribal jurisdictional boundaries. That has proven to be an effective sanction which prevents women and their children from being forced to flee their home due to violence. Banishment is a serious community sanction that cuts off perpetrators and sends a strong message about the protection of women and children in the community.[26] Several Kankanaey Igorot communities in the Cordillera region of the Philippines have customary laws that banish members who have committed rape. Thus, in those communities, incidences of rape are very low compared to urban areas and other provinces. The women of some Kalinga Igorot villages in the same region have succeeded in convincing their traditional leaders to abolish the discriminatory practices of bride price, dowry and arranged marriages;

(c) The Working Group on Discrimination against Women in Law and in Practice reported that some Latin American States formally recognize indigenous laws and

[25] See A/HRC/17/26/Add.5, para. 100.
[26] Ibid., para. 102.

courts in their constitutional laws, but that devolution of power was conditional on respect for and enforcement of women's rights by the indigenous legal system;[27]

(d) In Latin America, the use of quota systems to ensure the political representation of women has had some success. Bolivia (Plurinational State of), Colombia, Nicaragua, Panama and Peru, among others, have adopted electoral laws that include ethnic and gender quotas aimed at increasing indigenous women's participation in political processes. For example, the Act on Equal Opportunities for Women and Men of Peru specifically refers to the participation of indigenous women in public decision-making;[28]

(e) The Saskatchewan Provincial Court in Canada instituted a new court that addresses a critical barrier to access to justice by conducting court proceedings in the Cree language. The Cree Court takes into account traditional values when sentencing, encourages the participation of community leaders and explicitly acknowledges the cultural traditions of the First Nations. This innovative court structure reduces the negative impact of barriers to access to justice while, at the same time, realizing indigenous peoples' rights to self-determination and equal participation in the justice system;[29]

(f) A number of agencies and mechanisms within the United Nations system, including several special procedures mandates, treaty bodies and UN Women, have recently dedicated attention and resources to the issue of indigenous people's rights. For example, UN Women has included the needs of indigenous women in their engagement with the Open Working Group on Sustainable Development Goals, mainstreamed women's rights into the World Conference on Indigenous Peoples and delivered a range of regional and country level initiatives to indigenous women on economic empowerment, violence against women, political participation and broader capacity-building;[30]

(g) Since the early 1990s, several networks of indigenous women have been established in Australia, the Arctic, Latin America, North America, Africa and Asia, including Enlace Continental de Mujeres Indígenas de las Américas, Asia Indigenous Women's Network, African Indigenous Women's Organization, Sami Women's Organization. These groups have impacted policy debates through the sharing of experiences and joint advocacy on issues of concern.

V. Conclusions and recommendations

A. Conclusions

73. **Indigenous women and girls experience complex, multidimensional and mutually reinforcing human rights violations. Abuses of indigenous women's collective; economic, social and cultural; and civil and political rights are varied and severe. Those violations are alarming infractions on their own, but constitute a form of structural violence against indigenous women whereby they are victimized by the realities of the circumstances of their everyday life and routinely excluded from enjoying the rights and resources otherwise guaranteed to citizens. Indigenous women**

[27] A/HRC/29/40, para. 56.

[28] E/C.19/2013/10, paras 38-42.

[29] University of Colorado Law School, American Indian Law Clinic, Report on indigenous women's rights, prepared for the Special Rapporteur, 2015.

[30] UN-Women, "Submission to the United Nation Permanent Forum on Indigenous Issues on UN-Women's programmatic initiatives in support of the implementation of the United Nations Declaration on the Rights of Indigenous Peoples (2013-2014)", 2014.

also suffer from other forms of violence, including traditional practices, sexual violence, trafficking, domestic violence and gender-based killings.

74. Despite the severity and regularity of violations of the rights of indigenous women, the attention of much of the United Nations human rights and development policy architecture has been limited. Gaps and weaknesses in analysis include a lack of geographical balance, limited inclusion of collective rights, little exploration of intersectionality in relation to the vulnerability of indigenous women and a lack of exploration of the gender implications to rights issues affecting indigenous communities. There are, however, promising signs that the gap in monitoring indigenous women's rights is closing.

75. To protect the rights of indigenous women, both a paradigm shift and the development of a multidimensional approach is needed. States must find a way to strike a delicate balance between protection of indigenous women and respect for self-determination and autonomy of indigenous peoples. Engagement and consultation with indigenous women and girls is central to finding that balance.

76. The United Nations system must support Member States in striking that balance, as well as contribute to the paradigm shift needed through increasing attention to the needs of indigenous women and reconceptualizing rights issues to include the nexus between individual and collective rights, as well as the intersectionality between different forms of inequality and discrimination.

B. Recommendations

Recommendations to Member States

77. With regard to economic, social and cultural rights, Member States should:

(a) Improve access by indigenous peoples to education, with interventions targeted towards understanding and overcoming the specific barriers faced by girls;

(b) Improve access by indigenous peoples, including women and girls, to culturally sensitive health-care services; learn from and build on existing examples of the good practices promoted by the United Nations Population Fund and the Pan American Health Organization to develop an intercultural approach to health; and support reinforcement of traditional healing and health practices of indigenous peoples that have been proven to be effective;

(c) Pay particular attention to providing a range of sexual and reproductive health services to indigenous women and girls, with their free, prior and informed consent;

(d) Review and improve poverty-reduction programmes, such as conditional cash transfers, to ensure cultural and gender sensitivity;

(e) Invest in research that supports understanding of food insecurity among indigenous communities and develop programmes to ensure the rights of indigenous peoples to food;

(f) Develop educational materials that sensitize non-indigenous populations to the cultural realities of indigenous communities and women. Those materials should be integrated into school curricula and in human rights training for Government officials providing services to indigenous peoples, including the police, border guards and the judiciary, as well as health and education professionals.

(g) When developing initiatives to improve the economic, social and cultural rights, pro-actively engage with indigenous women and girls and other members of indigenous communities on how best to meet their needs; apply the principle of free, prior and informed consent to the development of all laws, policies and programmes;

78. With regard to civil and political rights, Member States should:

(a) Ensure that the birth of every indigenous child is formally registered in national systems;

(b) Develop interventions to increase the number of indigenous women in national and local political and public processes and explore the feasibility of implementing quota systems for indigenous women's representation in local and national politics;

(c) Explore ways to invest in the leadership capacity of indigenous women so that they can play more active roles in indigenous decision-making structures to protect women and girls within their communities;

(d) Ensure protection of the activities of all female human rights defenders;

(e) Consider the development of the special tribunals to ensure access to justice for indigenous women following abuses of their human rights. Such special provisions would allow for the individual needs of indigenous women to be met, the development of focal points to establish effective links with indigenous justice systems, greater recognition of specific cultural needs, as well as the accumulation of a systemic view of rights violations;

(f) Provide legal aid, interpretation and translation services, and culturally sensitive information about their rights and available remedies to all indigenous women and girls;

(g) Within the context of the implementation of the Guiding Principles on Business and Human Rights and the development of national action plans on human rights and business, ensure that judicial mechanisms are the primary means by which corporate violations of the rights of women and girls are remedied; and avoid legitimizing voluntary, private forms of remedy that do not provide effective access to justice for violations of the rights of women;

(h) Ensure that due process is undertaken in relation to all indigenous women who enter the criminal justice system;

(i) In relation to the overrepresentation of indigenous women in national criminal justice systems, invest in country-specific research into the root causes; develop targeted prevention programmes based on such research; and, where possible, consider alternatives to detention. When indigenous women are detained they must still be afforded protection based on their human rights.

79. With regard to violence against indigenous women and girls, Member States should:

(a) As recommended by the Special Rapporteur on violence against women, its causes and consequences in her 2011 report (A/HRC/17/26), develop a holistic approach to violence against women, based on the indivisibility and universality of all human rights, which recognizes the multiple interconnections between different forms of violence against women, its causes and consequences, and addresses multiple and intersecting forms of discrimination;

(b) In the context of affording indigenous people legal jurisdiction that is compatible with their rights to self-determination, develop mechanisms that allow

indigenous women and girls to pursue other means of recourse against violence if they are unable to obtain support and access to justice within indigenous communities;

(c) Balance respect for the right to self-determination of indigenous communities with their responsibility to protect indigenous women and girls in their capacity as national citizens and rights bearers;

(d) Ensure that all forms of violence against women, including female genital mutilation and child marriage, are included as violations within criminal law;

(e) Ensure clarity with regard to the relationship between indigenous, national and local jurisdictions in relation to violence against women; and ensure that the justice process is accessible and sensitive to the needs of indigenous women;

(f) In engagement with indigenous women and girls and building on existing good practice, develop more comprehensive anti-violence and recovery programmes within indigenous communities;

(g) Build the capacity of female indigenous leaders to advocate for the rights of women and girls to freedom from violence within indigenous communities;

(h) Invest in research into the root causes of domestic violence against women in indigenous communities and design preventive and recovery programmes;

(i) Refrain from any forms of violence against women, particularly in situations of conflict, and prosecute all allegations of violence carried out by Government officials, such as border guards, the military and police.

80. With regard to monitoring and accountability, Member States should:

(a) Consider developing national action plans on indigenous women's rights, which are strongly linked with clear monitoring and accountability systems;

(b) Invest in research and data collection systems to collect data disaggregated by gender, ethnicity or race, religion, language and territory or geographical area. Such data collection and research should include information on human rights violations, with particular focus on the situation of women and girls;

(c) Ensure that the targets and indicators agreed to monitor the sustainable development goals include ways to measure and incentivize progress in relation to indigenous communities and women in a meaningful way;

(d) Work with the United Nations to ensure that a more consistent and robust analysis of indigenous women's rights is included in the monitoring of all international human rights mechanisms;

(e) Monitor the full implementation of the recommendations made by the treaty bodies, special procedures mechanisms and universal periodic review.

Recommendations to United Nations organizations and mechanisms

81. While the Special Rapporteur appreciates the attention given to the rights of indigenous peoples within the work of other United Nations mechanisms, more consistent and geographically comprehensive analysis of the fulfilment of human rights among indigenous women and girls is urgently needed. United Nations human rights mechanisms should direct additional attention to the nexus between individual and collective rights and how that impacts indigenous women and girls, as well as how intersecting forms of discrimination and vulnerability impact human rights violations.

82. In the context of this increasing attention to indigenous peoples, the Special Rapporteur recommends that the Committee on the Elimination of Discrimination

against Women develop a general comment on the rights on indigenous women and girls.

83. In addition, as invited to in the outcome document of the 2014 World Conference on Indigenous Peoples, the Commission on the Status of Women should consider the issue of the empowerment of indigenous women at a session.

84. The Human Rights Council should, as it was also invited to do in the outcome document of the 2014 World Conference on Indigenous Peoples, consider examining the causes and consequences of violence against indigenous women and girls, in consultation with the Special Rapporteur and other special procedures mandate holders.

85. United Nations organizations and mechanisms should:

(a) Ensure effective follow-up to all the relevant recommendations made by treaty bodies, special procedures mechanisms and the universal periodic review;

(b) Work with Member States to develop research into underdeveloped areas which particularly impact the rights of indigenous women and girls. Research should be developed on intersecting discrimination and vulnerability and the relationship between individual and collective rights;

(c) Recognize the agency of indigenous communities, women and girls as development actors within the sustainable development goal for development partnerships;

(d) Ensure that the concerns of indigenous women and girls are included within the post-2015 framework;

(e) Work with indigenous women to strengthen analysis of both collective and individual indigenous rights within the monitoring of the Beijing Platform of Action.